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R. L. Scott

the gavel

volume 42 number 4

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**may
1960**

THE GAVEL

Official publication of Delta Sigma Rho, National Honorary Forensic Society

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**Editorial Address: Delta Sigma Rho, Bureau of Continuation Education,
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THE GAVEL

of

DELTA SIGMA RHO

VOLUME 42

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The Ninth Delta Sigma Rho Congress

BY ROBERT C. JEFFREY

Indiana University

The Ninth Delta Sigma Rho Congress convened in the Whittenberger Auditorium of the Memorial Union at Indiana University at 5:00 P.M. on Thursday, March 24, 1960, with President Herold Ross presiding. The delegates were stimulated by the Keynote Address of Dr. Robert Turner, former member of the President's Committee of Economic Advisors. Dr. Turner's topic was: "The Future Role of Government in Regulating Organized Labor."

Dr. Paul Carmack, Executive Secretary of Delta Sigma Rho called the roll of delegates. It yielded the information that 36 schools were represented by 144 delegates. The chapter representation was geographically well distributed. Bates College was represented from the east, the University of Virginia from the south Atlantic, Washington State and Stanford from the west coast, and Texas Technological Institute from the southern borders, with a majority of schools from the midwest.

Some of the most spirited sessions at the Congress occurred in the party caucuses which were held on Thursday evening. Norman Oberstein (Conservative) of Iowa and

Gerald Keyes (Liberal) of Wayne State emerged as the party nominees for Speaker; and Sue Ann Baker (Liberal) of Indiana and Judith Strayer (Conservative) of Ohio Wesleyan as nominees for Clerk. The first session of the Legislature on Thursday night was handled deftly by Dr. J. Jeffery Auer acting as Speaker Pro-Tem and Dr. Paul Boase acting as Clerk-Pro-Tem. Oberstein and Baker won the offices in the election during the Assembly. The business of electing officers was concluded in time for the scheduled adjournment at 11:30 P.M.

The nine committee meetings on Friday morning were handled in orderly fashion, and advance bills were amended to such an extent that the originals were unrecognizable, as anticipated. Following lunch, the Joint Conference Committee meetings were conducted. The debating in those meetings became so spirited that, in one case, the Chairman of the Committee led a minority walk-out. So many splinter groups formed that the meeting of the Steering Committee on Friday afternoon resembled the Creden-

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President's Page . . .

BY HEROLD ROSS

Go West Young Man!

This famous injunction by Horace Greeley to the young men of his generation may well become the slogan of Delta Sigma Rho chapters as they plan for the 1960-61 season of debate. The Forensic Conference on National Issues scheduled for April in Boulder, Colorado will have wide appeal and debaters everywhere will want to attend if at all possible. Forensic directors will certainly be urged to include this event on their schedules and in their budgets. Going west is always a relative matter: To New Englanders going to the Chicago area is going west; to Midwest chapters Boulder will also be going west. In these days of modern transportation, however, distance is no longer a barrier and the time spent in travel is shortened as well. Consequently, many chapters east of the Mississippi will be spending "springtime in the Rockies," come April.

A Western Delta Sigma Rho Event for Western Chapters

The General Council two years ago made provision for national Delta Sigma Rho events in the years between congresses. The 1961 Conference is planned especially for the western chapters. It is to be hoped that all of the Pacific Coast chapters will plan now to attend the Boulder meeting. While it is true that it is east of the far western chapters, it is far enough west for all to attend. At the same time it is not too far west for many in the east and middle-west to attend. This then should be a happy meeting place for chapters which have not been able to participate in too many of the society's national meetings.

Three New Chapters

Washington State University and the State University of New York at Fredonia were presented with their charters at the banquet session of the Congress. Charter members were initiated later in the evening. On March 24th in New Orleans Tulane University was presented with its charter by President Ross. Dr. E. A. Rogge, Forensic director and chapter sponsor, accepted for the petitioning group. The new chapter had seven charter members.

New Officers:

Leroy Laase, University of Nebraska,
Vice President
Marvin Esch, Wayne State University,
Vice President
Mel Moorhouse, University of Wichita,
Vice President
Herbert L. James, Dartmouth College,
Vice President
Charles Goetzinger, Colorado University,
Editor of the *Gavel*

While the Ninth Delta Sigma Rho Congress was not as large as many of them—the record was 47 schools at the Jubilee Congress in 1956 with 179 delegates—it must certainly be ranked as one of the best. Its national character was evident with Stanford and Nevada from the far west, Bates from the New England area, Virginia from the southeast and Texas Tech from the southwest. As usual the midwest furnished most of the delegates. The United States Naval Academy sent a full delegation which participated most actively in the committee work and the floor discussion.

The facilities of the Union at Indiana University were ideal in every way with excellent rooms, good food, and attractive settings for the committee meetings and the assembly. The details of the Congress had been carefully worked out so that the whole procedure was smooth and always on schedule. The addresses were most helpful. The activities of the Congress provided many opportunities for both speaking and parliamentary skills. The general mien was serious but enjoyable.

The members of the general council tackled an interesting and timely agenda, with the result that a third session was called for Saturday morning. The spirited and thorough discussions gave each topic ample consideration and led to wise decisions.

On Friday evening a class of about twenty-five students representing a number of colleges was initiated into the society. Professor E. C. Buehler gave them a history of Delta Sigma Rho which was instructive and impressive.

Both students and faculty seemed to be in substantial agreement on Saturday morning as the congress adjourned that it had been an unusually fine experience.

Ethical Presuppositions of Argument

BY ROBERT P. NEWMAN*

It thus appears the rhetoric is an offshoot of dialectic and also of ethical studies.

Aristotle, *Rhetoric*, I.2

A proposition of policy arises whenever someone believes that some human activity might be carried out in a manner superior to that of the present. Conscious formulation of such a belief always includes a moral term: The United States *should* extend diplomatic recognition to the Communist government of China; Pennsylvania *should* abolish the death penalty; or the Panama Canal *should* be internationalized.

Though there is much argument in everyday life which is not directly concerned with policy (questions of "fact"—"Russia is ahead of us in missilery"—and of "value"—"Shakespeare was the greatest playwright"), the vast arena of legislation is uniquely devoted to policy considerations. And, following Rahskopf's early insight,¹ academic argumentation is now almost exclusively on policy propositions. Even Jurisprudence, which treats presumably of factual matters such as "Was Jones guilty of murder?" and "Is X Corporation liable for the damage to Y's car?" must eventually come to grips with a policy decision: in the event of guilt or liability, what punishment should be ordered?

One obvious characteristic of policy questions is that they involve ethical presuppositions. Even though not explicitly stated, ethical values stand as a yardstick behind our policy judgments. We may *seem* to begin a policy discussion with the empirical observation that Communist guns are shelling the Quemoy Islands, but behind our concern over this matter are all kinds of value-judgments about peace, security, loyalty to allies, etc. Before the *status quo* can be condemned, and an alternative considered, standards of value have to be invoked if only implicitly; and both the existing state of affairs and any proposed plan have to be measured against them. The *status quo* has to be shown to be wrong when measured against some accepted ethical standard before the advocate can win his case for adopting a new program.

Strangely, the place of reasoning and evidence in arguing propositions of policy is clearly and universally recognized, and dealt

with at length by the textbooks; but the ethical component of argument, the standards by which what exists is condemned, and what might come to be is approved, receive very little attention. This may be due to the overwhelmingly pragmatic orientation of modern society, which is much more concerned with means than with ends, and which frequently assumes that change is a good in itself. But even means to an end have ethical consequences, which are fortunately receiving increased attention from rhetoricians.²

There was no neglect of the importance of the ethical underpinnings of rhetoric and argument as Aristotle dealt with them. Taking his system as a whole, it is quite clear that he ranked ethical studies—whether related directly to politics or not—as a *major* discipline, fundamental to all studies of human action. A reading of the *Rhetoric* will verify this; ethics are not so much discussed in this work as presupposed. In fact, Aristotle strove mightily to lift rhetoric out of the ethical desert of sophism, to make it morally legitimate. Though his definitions of "the good" in political, ceremonial, and judicial contexts are somewhat narrow,³ he clearly realizes that a major concern of him who would persuade is with being clear about his ends. And in this emphasis, he was absolutely right. There is reason to believe that contemporary studies in academic argument would gain greatly in soundness and respectability if it were recognized that the study of ethics is a central and indispensable part of the discipline.

Let us therefore look closely at the "should" of propositions of policy, in an attempt to see how the vast ethical richness of Western culture can be related to the practice of argument. The common bromide with which we still any vague uneasiness as to the ethical issues involved in policy is the formula "*should* means *ought to*, and includes the concept of possibility, but not of probability." With this simple translation, we seem to feel that we have paid the necessary lip-service to ethics, and go about our business showing how evil the present is, and how easily we are going to remedy it.

Unfortunately, such a pat definition hardly begins to tap the insights of the great ethical systems on which our concepts of good and bad depend. Far more is beneath the surface than is immediately apparent; and it is possible to relate this wealth of

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ethical thought to our everyday problems without becoming bogged down in the quarrels of the philosophers.

Most of us, of course, have acquired our evaluative systems from our environment, in which our parents and teachers occupy the positions of most influence. As we reach maturity, we begin to question received values, and search about for standards which seem more consistent, or humane, or satisfying. What we are compelled to ask is simply this: what is it that makes an action or a policy good or right, as contrasted with bad or wrong, and how do we go about informing ourselves about the criteria which justify these evaluations?

The history of ethical philosophizing seems often as barren of practical advice as pre-Deweyan logic is useless in solving everyday problems.⁴ The claims and counterclaims, systems and sophistries, are in most writers so obscure as to warrant the charge of Keats in *Lamia*: "Do not all charms fly at the mere touch of cold philosophy?" And with the rise of the philosophy of logical analysis, many who formerly felt the attraction of idealist and utilitarian positions have given up any hope that out of the realm of the occult will come wisdom. But the picture is not really this bleak.

One of the most fruitful inquiries into problems of ethics comes from Stephen E. Toulmin, whose *The Place of Reason in Ethics*⁵ has been described as "Probably the most important book on ethics published [in England] since Moore's *Principia Ethica* at the turn of the century."⁶ The approach Toulmin takes is eminently appropriate for students of argument seeking to avoid obscurity and intricacy: he refuses to objectify "right" and "good," and provides a method of analysis which concentrates on answering the question "What kinds of reasons would be adequate to justify the approval of this action or practice?" He shows a strong utilitarian bias, but still does justice to the claims of prevailing moral codes. His analysis is not of the isolated and essentialistic concepts; it is instead an analysis of the way ethical terms function in our thinking.

Analogously, leading scholars in jurisprudence have given up attempts to objectify and define single words, such as "liability" and "possession." The inaugural lecture of H. L. A. Hart as Professor of Jurisprudence in the University of Oxford contains the following:

Long ago Bentham issued a warning that legal words demanded a special method of elucidation and he enunciated a principle that is the beginning of wisdom in this matter though it is not the end. He said we must never take these words alone, but consider whole sentences in which they play their characteristic role. We must take not the word "right" but the sentence "you have a right"; not the word "State" but the sentence "He is a member or an official of the State."⁷

That this warning has been neglected, by jurists as well as philosophers, is obvious. But its growing acceptance today offers some hope that progress is possible in fields other than the natural sciences. Recent works by Jensen,⁸ Montrose,⁹ and Wittgenstein,¹⁰ to mention but a few, reflect a trend, stimulated no doubt by the increasing attention given to semantics.

The most fertile source of ethical insight for teachers of argument, however, is to be found in the writings of Wayne A. R. Leys. Assuming that "... the point of moral philosophy is to discover whether the right question is being asked," Leys attempts to assemble in his *Ethics for Policy Decisions*¹¹ a summary of the kinds of questions emphasized by the leading ethical philosophers. It is in the spirit of his subsequent application of these various types of questions to matters of policy that this paper will relate ethical presuppositions to a classic—and, at the same time, contemporary—proposition of academic argument. The three ethical systems which seem to offer the most appropriate questions are the Idealist systems of Plato and Kant; the Utilitarian system of Mill and Bentham; and the Casuist system of the great religious and legal philosophers. No attempt will be made to trace these varying systems back to a single source, nor to define once and for all what we mean by any single ethical term; what we are after is an ethic which "can be mobilized quickly under exciting and distracting circumstances."¹²

Moreover, in addition to using these three major ethical systems to give substance to the "should" of policy propositions, we shall find that they furnish us with a procedural device by means of which we can arrive at and classify the major issues of a proposition. Finding and organizing issues is always a difficult matter, and if issues can be related to the ethical systems from which they spring, an ordering principle of some merit may be obtained.

Let us then consider what might be called "the method of ethical review" as it can be applied to the proposition, Resolved: That the United States should extend diplomatic recognition to the Communist Government of China.

* * *

Buried deeply in the fabric of Western culture is a set of concepts which we normally call "ideals." Philosophical or theological speculations as to their ultimate source need not detain us here, nor need we refine them in an attempt to seek their "essence." Plato found the latter task highly interesting, but most of us today would regard his objective as chimerical. Our starting point can simply be the recognition that notions such as "truth," "justice," and "promise-keeping" have a strong hold on

men's minds, and commonly represent concepts that come to mind when we consider morality. These are ideals to which men do in fact look up, and they are worthy guides for many kinds of action.

Let us, then, approach the general area of international relations, and the specific problem of whether we should recognize Communist China, by asking the kinds of question which an idealist would ask. He would want to know, certainly, whether or not our present policy is "just." The U. S. State Department, in the person of the late John Foster Dulles, did invoke concepts of justice in its public stand against recognition. The Communist regime was (and still is) condemned on the grounds that it seized power by force and violence, that it was not an expression of the self-determination of the people of China, and that it rules with tyranny and oppression. This leads to the claim that the Communist Government does not "deserve" recognition, which is a judgment based on idealistic grounds of justice.

Competing viewpoints, of course, would contend that it is not "just" to refuse to recognize a power which controls so substantial a portion of the earth, and which obviously has consolidated its power. It is not our purpose here to evaluate these competing claims, and to decide in which direction "justice" lies; we are only concerned with inspecting the broad area of the proposition from the viewpoint of the idealist, and enunciating the issues which he would raise. "Justice" is certainly one of the key concepts here, and factual questions such as who controls what, how things got that way, and whether anyone is suffering are important to the extent that they elucidate the central concept of justice. The Affirmative on our proposition are going to claim that the present policy is unjust, the Negative are going to side with Dulles. The issue is: "Is nonrecognition just?"

A second idealist concept, promise-keeping, was emphasized by Plato and Kant alike, and figures prominently in the writings of British Moralists.¹³ Any idealist approaching our Far Eastern situation would inspect the ground for obligations based on promises, and would rapidly turn up data indicating that the United States has made certain commitments to Chiang Kai-Shek and the Nationalists. When they were made, who made them, how firm they were, and what ground they covered are items about which there well may be dispute; but that somebody regards the United States as bound by a promise not to recognize the Communist Government there can be no doubt. And, if we have committed ourselves to acknowledging the Nationalist Government as the rightful rulers of all China, this

promise justifies a debater in contending that here is a good reason for nonrecognition. Our national honor is involved, promises are not to be gone back on. These are idealistic considerations, and the issue they raise is clear: "Are we committed by a promise to a policy of nonrecognition?"

There is still a third idealistic consideration involved. Not only Woodrow Wilson, but a host of other reformers, crusaders, and idealists of all stripes have inveighed against war and set up the image of peace as a good in itself, as something to be sought after no matter what the provocation to arms, no matter how little the suffering of conflict, no matter how glorious the contest. "Peace" as an ideal compares favorably as to the fervor it invokes with any other ideal posited by any seer in any age. One need only inspect the uses to which this label has been put by the present Communist regimes to be convinced that its power over the minds of men is without compare. And here the Affirmative on this topic come into their own: if an argument can be made to the effect that peace will be furthered by recognition of Communist China, a host of lesser ideals (and arguments based on other ethical presuppositions) can be consigned to the wastebasket.

We began our inventory of idealistic approaches to the recognition of Communist China by considering the matter of justice. From justice our search led to promise-keeping, and eventually to peace. Each of these concepts gave rise to an issue, a real issue, which needs to be considered and argued if we are to do justice to the proposition. We have not settled these issues, nor do we pretend that they exhaust the questions relevant to this topic which idealists might ask; but they are unavoidable, and they are of a similar stamp.

Before passing to the questions asked by other ethical systems, we need to observe that the Aristotelian viewpoint, which would be shared by the Utilitarians, is that these ideals have no validity except insofar as answers to the issues they raise are satisfactory in terms of expediency or the effects of the proposed policy.¹⁴ This point of view would argue that we should honor any promises we have made to Chiang only if the overall results of so doing were beneficial to us or perhaps to the whole world; to put it in the vernacular of the semanticists, only if the results contributed to "time-binding." Similarly, a "justice" which neglects the living conditions of masses of people, or which ignores contemporary power-politics and plays into the hands of our enemies, is a sham virtue.

It is certainly true that actions taken for idealistic reasons do have consequences, and that any thorough consideration of a pro-

posed policy will take these expected consequences into account. It may also be true that our so-called "ideals" are simply symbolic generalizations expressing empirical observations to the effect that keeping promises leads in practice to the greatest good of the greatest number, or that following a peaceful policy is expedient in terms of survival. Nevertheless, unless one accepts a complete psychological egoism such as that of Spinoza,¹⁵ it is clear that we do sometimes act on idealistic bases in spite of predicted unfavorable consequences, and that there is a case to be made for such action. Furthermore, if these "ideals" crystallize some significant segment of the experience of the race, they have a *prima facie* validity which cannot be discounted. Utilitarian considerations may sometimes outweigh idealistic ones, and we may never take courses of action which we feel to be productive of "bad" results; but what standards do we use to determine when results are "bad"? Surely the Utilitarian argument is to some degree circular, and we are left with a viable—and primary—appeal to idealism.

* * *

A second ethical framework from which we can obtain questions to put to our basic problem area is provided by Utilitarianism. Bentham would say we were to be concerned with the greatest good of the greatest number, and there are some obvious and straightforward "goods" on which utilitarian calculation can be based: health, happiness, survival. Those prescient gentlemen who twisted the lion's tail in 1776 talked about "life, liberty, and the pursuit of happiness"; however phrased, the *desiderata* of Utilitarianism are solidly entrenched. Many of them are relevant to that aspect of our foreign policy which concerns relations with Communist China.

Following still the program of Leys, let us admit that results of actions, taken from whatever motives, are important. Let us also give Utilitarianism credit for considering spiritual (physic, emotional, nonmaterial) results in its calculus of values. We are, fortunately, past the Puritan suspicion of all worldly benefit as evil; we now can, and do, with frequently genuine conviction, base our moral judgments on a projection of human needs and desires. Many of the obvious issues related to the recognition of Communist China spring from Utilitarian sentiments.

Utilitarians are conspicuously concerned with results. When we view the Chinese situation through Utilitarian eyes, we want to know what will happen, given affirmative action, and what is happening under the *status quo*. We will be, to begin with, highly conscious of the fact that a majority of the world's population is nonwhite, that

the wave of the future may lie with the colored and oriental peoples. One of the goals we must seek in our relations with the vast territories of Asia is to convince them that we are not prejudiced against the color of their skins, nor contemptuous because they have not (yet!) reached our technological standard. Here, then, is an issue: Do Asians interpret our policy of nonrecognition as a sign of racial prejudice?

Discussing this issue will involve analogy with our relations to other Communist nations: adducing direct evidence to the effect that nonrecognition is interpreted by some substantial segment of humanity as representing racial prejudice; and accounting for our recognition of Japan, India, etc. The basis of the issue is not an idealistic concern with the Brotherhood of Man; it is simply our own long-range survival.

A second major concern agitating Utilitarians who inspect our operations in the Far East is the serious disagreement between the United States and Britain over policy toward China. Tensions between us over recognition have led to no catastrophic break; but they are real and (perhaps) useless, and agreement on recognition would clearly solidify our alliances. Here is an issue, favoring the affirmative: "Would recognition of Communist China strengthen our alliance with Britain?"

Not only will one of our Utilitarian objectives be the strengthening of our own alliances, but we will be sensitive to the problem of weakening our enemies. We are obviously seeking in every feasible way to weaken nations opposed to us, whether we recognize them or not. Is there any way in which recognition can weaken our enemies? One obvious way would be to drive a wedge between China and Russia. Bearing in mind the valuable defection of Tito from the Bolshevik camp, the natural strains of the Moscow-Peiping axis, and the refusal of Mao to go along with Khrushchev's "don't rock the boat" policy, we can develop an issue most suitable for the affirmative to deal with: Will recognition weaken China's ties with Russia?

Utilitarian considerations are so close to the surface, and the consequences of our present policy so manifold, that the list of issues evolved when we use this avenue of approach could run into two figures. Will recognition improve the channels of communication and negotiation with China? (Material adduced to support this point on the affirmative might also serve to give substance to the idealistic-based issue relating to peace. There is no necessity for maintaining water-tight division between issues based on different ethical presuppositions.)

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General Council Meeting

Delta Sigma Rho Congress

Indiana University

March 24, 25, 26, 1960

National president, Herold T. Ross, opened the meeting at 9:00 A.M. The attention of the group was called to a consideration of the status of the disclaimer oath affidavit for use of N. D. E. A. funds. It was pointed out that leaders of both parties had favored its repeal. Thorrel Fest moved and several seconded the motion that the General Council of Delta Sigma Rho go on record for repeal of the disclaimer affidavit and notification of the action be sent to the appropriate Congressmen.

Then followed a discussion of the meaning and origin of the disclaimer oath. Buehler moved, Fest seconded the previous question, which was passed. Then all votes were for passage.

1. The Committee headed by Winston Brembeck had its report presented next. This report sanctioned by the Executive Committee favored DSR recognition of distinguished alumni. Hance moved, Fest seconded acceptance of the report which favored an annual award for one person, the award to be made as a feature of the annual DSR meeting. The cost was not to exceed \$50.00 per yearly award. Larson moved that editorial changes be made which was passed. Then, the report was unanimously accepted. In order to implement the action, Fest moved, Hance seconded a motion that the Council go into session as the Committee of the Whole, which was passed. President Ross appointed Thorrel Fest as chairman of the committee. A straw vote showed 14-1 in favor of the principle. Hance favored honoring a "lifetime career" in preference to a "man of the year" type of achievement. The one recommended should be a "speaker" who has made a significant contribution to mankind. A candidate should be present for the award unless health prevents.

After a recess Paul Boase proposed a letter of appreciation be sent to Eugene Chenoweth, conference director, who had been ill. Upon Edward Robinson's second, the action passed.

Kenneth Hance gave the treasurer's report as printed in the March issue of the *Gavel*. He also gave amplifications of the trustee's report of E. C. Buehler who reported the status of the investments of DSR. Our trustee made a report of favorable growth and returns. He gave a history of the investment results, which has built

\$14,000 to nearly \$50,000 over the years. Thorrel Fest spoke in commendation of the wise handling of the DSR monies.

After adjournment from the committee of the whole session, the DSR meeting reconvened. A motion by Fest was made and seconded by Moorhouse to adopt the following resolution:

Whereas Delta Sigma Rho wishes to honor selected distinguished alumni members [who have made significant contributions as educators and/or as citizens] the General Council requests the President of Delta Sigma Rho to appoint a national committee to determine the final selection of honorees. This committee shall be guided by the following general principles:

1. The person honored should have a record of distinguished service to society extending over several years.
2. Every effort should be made to encourage the honoree to be present to receive the award.
3. The committee shall select one individual per year, but in unusual cases, may go to the Executive Committee to select more.
4. A maximum budget of \$50 should be appropriated for administration of the program.
5. Every effort should be made to explore ways and means by which funds could be made available to defray travel and related expenses of the honorees.

The motion passed.

The report of the Executive Committee in recommending Alan Nichols for the alumni award was presented to the General Council. J. Garber Drushal and Larson seconded approval of the recommendation and asked that the president and secretary activate the award's accomplishment.

The location of the 1961 tournament question brought offers from Robert Griffin of the University of Nevada and Thorrel Fest of the University of Colorado. Both spoke of the advantages of their campuses as sites. Smith of Virginia moved and Boase seconded a motion favoring the Boulder location, which passed after discussion. A considerable majority favored April as the month. Thorrel Fest promised information on travel possibilities.

The General Council recognized the great western tourney of DSR and Tau Kappa Alpha and stated that it will not be labelled as such for the 1961 event.

King Broadrick moved, Larson seconded, a motion favoring inviting the service academies in 1961.

Broadrick moved and Boase seconded a motion that the Boulder meet be held in a procedure other than a standard debate meet.

Passed. President Ross appointed Robert Friedman, King Broadrick, Marvin Esch, and Leroy Laase as a committee to develop such a plan. (The report is attached.)¹

After a recess for the Reception in the Georgian Room, the meeting reopened at 4:45 P.M. There was a discussion of possible meanings of qualification for members-at-large especially in the case of non-member sponsors. Herold Ross reported that our membership in the Association of College Honor Societies prevents exclusion of members who hold membership in other honor societies.

The Austin Freeley proposition of urging Lincoln-Douglas for the two presidential candidates was passed unanimously.

The Nominations Committee of Robert Weiss, Ed Robinson, and Clayton H. Schug, Chairman, was adopted and the following elections resulted:

For vice-president—4 year term
Four to be elected

1. Leroy Laase—Nebraska
2. Herbert James—Dartmouth
3. Marvin Esch—Wayne State
4. Melvin Moorhouse—Wichita

Gavel Editor Charles Goetzinger

The Friedman Committee report of a new type of program for the Boulder meeting was adopted. Adjournment until 8:30 A.M. was taken.

The meeting reopened at 9:00 A.M. Discussion followed on the Orville Hitchcock report of the cooperation work on the selection of the sectional debate topic with other debate organizations. Laase moved (with several seconds) that we instruct our representatives to request that the national committee consider the naming of a second proposition for use in late season conferences. Passed.

Larson moved to reconsider the motion which resulted in acceptance of the Friedman report for the plan of the meeting at Boulder. Several plans were discussed, but the Friedman Committee plan was re-adopted.

Thorrel Fest reported that Lee Chapin was returning from active work in debate. It was moved that the secretary send a DSR recognition to him.

Suggestions for a name for the Denver meet evolved into "The DSR Forensic Conference on Public Affairs."

It was reported the sense of the Sponsor's Forum meeting of Thursday night reaffirmed

the idea that Delta Sigma Rho is chiefly honorary in purpose.

Motions of appreciation were passed for the following:

1. The work of the Friedman Committee.
2. The Department of Speech workers for the Indiana University Conference.
3. The Indiana University Administration.
4. The very active interest of sponsors attending this conference.

The General Council adjourned at 11:20 A.M., March 26.

The following sponsors signed the attendance record:

J. Garber Drushal—Oberlin
Ed Robinson—Ohio Wesleyan
Amelia Hoover—Temple
King Broadrick—U. of Illinois
Terry Ostermuir—Marquette
Jerry Polisky—Wisconsin
Marvin Esch—Wayne State
J. G. Robbins—Kansas State
R. S. Griffin—U. of Nevada
Kenneth Hance—National Treasurer
Leroy T. Laase—U. of Nebraska
Paul Carmack—National Secretary
Robert O. Weiss—DePauw
P. Merville Larson—Texas Tech
Mel Moorhouse—Wichita
Don Torrence—Knox
Lillian Wagner—Iowa State
Brad Lashbrook—Michigan State
Robert Smith—U. of Virginia
Jon Erickson—Stanford
Wm. Calderhead—Naval Academy
Tom Murray—U. of Michigan
E. C. Buehler—U. of Kansas
Austin Freeley—John Carroll
Robert Friedman—U. of Missouri

A NOTE OF APOLOGY:

To Kim Giffin and Brad Lashbrook

Your article will appear in the
November, 1960 issue.

No Room at the
Inn This Issue

¹ Due to space limitations this report will appear in November, '60 *Gavel* (with appropriate editorial comments).

Delta Sigma Rho National Congress

Indiana University—

March 24, 25, 26, 1960

Minutes of the Executive Committee Meeting

Thursday, March 24, 1960—7:30 p.m.

National President Herold T. Ross opened the meeting with a report of the status of applications from several campuses.

(1) The debate program at the University of North Carolina was discussed. The application is now held by Earl Wells of Oregon State. After discussion, little was known by those present so the consideration was tabled at the request of Robert S. Griffin of Nevada.

(2) Favorable discussion proceeded concerning the application from Lehigh University, which had been prepared by H. Barrett Davis, Head. Other needed information had been requested by Earl Wells.

(3) Good reports were heard concerning Kings College as a prospective member college.

(4) A request for consideration has been received by Brothers College of Drew University.

Robert S. Griffin suggested good forensic programs were being conducted at Sacramento State College and at the University of San Francisco.

Herold T. Ross proposed that the vice-presidents should have a copy of the qualifications for a new chapter and stated that he would send each a copy. He also suggested in the case of worthy prospective members below the top 1/3 of their class that upon the sponsor's recommendation, he, as national president, has the prerogative of extending membership to that student. He would expect that extenuating circumstances would be such as to merit his favorable consideration. If a sponsor has such a problem he should refer the case to the national president for evaluation.

Austin Freely proposed that DSR go on the record as favoring a Lincoln-Douglas type debate by the two presidential nominees during election campaigns. Hance moved and Larson seconded the motion that the proposed be to the General Council meeting on Friday with the favorable recommendation of the Executive Committee. It was passed unanimously.

Herold Ross proposed that the National

Constitution be revised and printed. After discussion Griffin moved and Merville Larson seconded that the president, treasurer and secretary constitute a committee to provide printed copies of the constitution and history. DSR Congress Rules (and other materials at the committee's discretion) be printed at a cost not to exceed \$200.00. Passed.

Kenneth Hance gave the treasurer's report and reported a satisfactory bank balance situation. (The secretary had sent an additional \$505.00 to the treasurer's office which amount did not figure in this report of March 24th.)

Upon hearing the Hance report, E. C. Buehler, trustee, moved that DSR liquidate the balance of the \$4000.00 loan (of 1956) by July 1, 1960. Upon Larson's second the motion passed.

A nominating committee of three was created by motion to fill the position of those vice-presidents whose terms now expire. Griffin moved, Carmack seconded that Leroy Laase be eligible for election as he had been appointed in 1958 to fill the unexpired term when Herold Ross was elected to the presidency. Passed by consent.

The Brembeck committee report on Alumni Awards was read. The vote approved the report which favored such awards to distinguished DSR alumni. Robert Griffin proposed that early and special consideration be given to Alan Nichols and recommended that such request be presented to the General Council meeting. This was passed unanimously.

Since the presence of the president and officers was requested at the Student Congress, the Executive Committee meeting was adjourned.

Herold T. Ross

President

Paul Carmack

Secretary

Members present:

Herold T. Ross, Kenneth Hance, E. C. Buehler, Paul H. Boase, P. Merville Larson, Robert Griffin, Paul Carmack. Also past president Thorrel Fest, Clayton Schug, and Austin Freely.

ARGUMENT . . .

(Continued from Page 54)

Will recognition encourage more responsible behavior on China's part? Will recognition help the United States to gain face with the world's neutrals, such as India? Would recognition cause a loss of faith in America's promises of anti-communist support to South Korea, Laos, Pakistan, etc.? Would recognition open the way to a dangerous trade between Communist China and the industrial nations of western Europe? Would recognition win support for the Communist Government among the eleven million strategically-placed overseas Chinese?

Utilitarianism, then, while it is not the only viewpoint from which ethical standards of conduct for our foreign affairs can be derived, looms large; we are short-changing our students, and encouraging shallow analysis, if we fail to lead them to recognize the ethical underpinnings of this substantial group of issues.

* * *

The third major source of ethical presuppositions of argument has been given a label which to many will be anathema: Casuistry. As intended here, and as used by Leys,¹⁶ Casuistry is the consideration of authoritative rules, precedents, and traditions in seeking answers to questions of right conduct. Institutional religion and Jurisprudence depend heavily on Casuistry: it was the overdependence on Casuistry on the part of medieval theologians which Abelard protested and which is responsible for the current disrepute in which the term is held. It will do for our purposes here, however, so long as it is understood that no negative connotation is intended.

We do, quite frequently, in our everyday lives, label an action as "right" or "good" because it is in accordance with precedent or tradition, without reference to other ethical systems. We say it is "right" for the Supreme Court to exercise the power of judicial review simply because precedent has established such a power. The polygamy of certain Mormon sects was condemned on a Casuist basis, despite obvious Utilitarian advantages to the practice. An employee protesting the withdrawal of coffee-break privileges does so primarily because he regards traditional usage as having established a right—and the NLRB will respect his point of view. Casuistry, in fact, lies behind the presumption in favor of the status quo: it is that which preoccupies the ground. In inspecting our relations with Communist China we find Casuist grounds for very real issues.

The first and most obvious group of precedents or traditions which might be invoked

to shed light on what we ought to do with regard to China is found in our treatment of other Communist nations. Does not our recognition of Russia, Poland, Hungary, and so forth, establish a rule of action? Are they not every bit as violent, atheistic, and aggressive as China? Even if we did postpone our recognition of Russia for 17 years, we were eventually constrained to admit that the Bolshevik regime was there to stay, and had to have relations with it. How is China any different? So runs the Casuist argument for the affirmative: a clear precedent has been established, and we have not repudiated it by de-recognition, even after the Hungarian uprising.

But there is another precedent, of more ancient foundation than the above, which is available for negative use. When we are searching for authoritative traditions which might govern our attitude toward Communist China, we must consider the Stimson Doctrine. As long ago as the 18th century, a principle began to take shape which challenged the so-called "right of conquest." Woodrow Wilson appealed to it in his address to Congress in 1918, and it acquired official status with its incorporation into the Covenant of the League of Nations as Article 10. In 1931, this principle of non-recognition of seizure of territory by force or threat of force was put into action with the pronouncement of Secretary Stimson regarding Manchuria.¹⁷

Why, say the negative, should not the Stimson Doctrine be binding in our problem of whether to recognize Communist China? Is not this a respectable precedent? Should we think twice before disregarding it? Here is a second Casuist issue, depending for its force not upon ideals nor upon anticipated results, but upon authoritative practice.

* * *

So far, we have been concerned with the desirability of locating the ethical presuppositions of argument primarily to re-establish the vital connections between policy and the great moral codes of Western culture. The understanding which such a study can give is of value in its own right. To the extent that argumentation lays claim to status as a "liberal art," no further justification for incorporating ethics is needed.

There is, however, an additional benefit to be gained from use of "the method of ethical review." It can provide an *organizing principle* in the discursive process of analysis, and can provide an organic grouping of issues. If we do not bare the ethical presuppositions with which we operate, issues tend to pile on top of each other willy-

(Continued on Page 62)

The Law in Debate: II Burden of Proof

BY ROBERT W. SMITH†

(Second in a Series)

Previously we saw something of the relation between American law and debate's philosophy of freedom of speech. In the present article we shall continue the investigation of the relationship of these two forensic activities, extending our inquiry into burden of proof. We shall (1) examine what burden of proof is; and (2) see what trends there are in legal procedures bearing upon it.

Burden of proof is not a new concept conceived by enterprising debate coaches of the last 75 years. It is at least as old as the Mosaic code which required that at the mouth of two or three witnesses should a point be established. Pontius Pilate, Roman governor of Palestine, held virtually the same position when at the trial of Jesus he said to the accusers, you haven't proved your case—"I find no fault with him."

By and large, extant texts are correct when they say that burden of proof is an argument is the responsibility of the affirmative to indicate the need for a change.¹ If one wishes to compare debate with law—and there are some similarities—this same view would hold, at least in criminal cases: the prosecutor (the indicter, the accuser) has the responsibility of proving the defendant guilty, for he is innocent until so proved "beyond a reasonable doubt."² Another way to determine who has the burden of proof is to answer the question, which party would be successful if no evidence at all were given? The burden of proof lies with the opposite party.

The law draws a marked distinction between burden of proof in criminal cases and that in civil cases. In the former guilt is established "beyond a reasonable doubt"; in the latter it is established by the "preponderance of evidence."³ Since collegiate debating more nearly parallels civil than criminal procedure, comparisons for the remainder of this article will be with civil cases, unless otherwise indicated.

When we say burden of proof never shifts, let us be clear to differentiate burden of proof from burden of evidence. The former we now know, but the latter is the burden of proving each fact in a *prima facie* case, or, in general, to produce evidence sup-

porting one's own case. Burden of evidence constantly shifts within a proceeding; burden of proof seldom does.⁴

In civil cases the burden of proof is not always on the prosecutor (affirmative). For example, the prosecutor is relieved of the burden if his opponent introduces the necessary proof on a given topic, as happened in a 1931 Indiana case when a father sued to recover funeral expenses for his minor child, killed accidentally by the defendant.⁵ Indeed, there is a trend since the 1954 Holland cases in taxes to put the burden of proof on the one indicted for tax evasion to prove that he really hadn't eluded them.⁶ As any debater recognizes: this is a significant departure from the precept that the affirmative always has the responsibility. Although I am uncertain if there is a similar trend in English law, in a bigamy case (*Rex v Broughton*, 1953) an identical principle emerged. Although the Crown was obligated to prove the defendant knew his spouse was living, the defendant had to show that his wife was absent for seven years, the minimum time for remarriage.⁷

(Of course we know that when the defense [negative] proffers an affirmative defense—i.e., a defense which is more than a mere denial of the plaintiff's statements; he offers new material—he assumes the burden of proof.⁸ This is similar to the introduction of new arguments by the negative.)

There is another facet to our subject. There is evidence to suggest that the party which has the greater means of discovering the truth should be charged with the burden of producing the evidence, as happened when the federal-government sued a steamship line for damages to its materiel.⁹ Thus in debate if the negative has evidence relevant to the case, but which is not available to the affirmative, it has the responsibility of producing such data. It is insufficient that he but try to balance the scales of argument. Indeed, he cannot balance them without the said evidence.

As noted earlier, the prosecutor need not establish the validity of his case "beyond a reasonable doubt." A "preponderance of evidence" suffices. The defense (negative) need not *overcome* a *prima facie* case by massive evidence. In this case balancing or equipoising the case is sufficient.¹⁰ So, if the affirmative, having the burden of proof, unbalances the scales so that the case leans toward him, all that the defendant (nega-

* I am indebted to Judge Temple Driver of the Wichita County (Texas) Court for helpful suggestions in the preparation of this article.

† Mr. Smith (Ph.D., Wisconsin, 1957) is Acting Assistant Professor of Speech, University of Virginia.

tive) must do is to produce enough evidence to put the case in equilibrium again. If he can continue to do this throughout the proceedings, he is entitled to the decision.¹¹ In debate, however, this will often require more than simple refutation, as some teams use.

A reasonable inference of the truth is ordinarily sufficient. The plaintiff is not compelled to prove more than is necessary. Thus negative teams should not look for affirmative proof which is "beyond the shadow of a doubt." Such is expecting more than the case demands.¹² Debaters, like juries, deal with probabilities—greater or lesser ones—but probabilities nonetheless. Decisions should be rendered to the side where there is the least doubt.

There is some confusion in law when each side gives facts equally supporting two inconsistent inferences. Should the negative get the nod; should the affirmative—or should either? Court decisions have differed. In any case none has given it to the plaintiff (affirmative)!¹³ Therefore, the affirmative must be certain to keep the particular point unbalanced in his favor, as when both sides quote two "authorities" with diametrically opposite views.

In cases in which the plaintiff pleads *res ipsa loquitur*—"the thing speaks for itself"—the defendant is left with a kind of burden of proof, though more accurately it is the burden of going forward with the evidence. Suppose you are walking along the campus sidewalk and books fall out of an upstairs classroom window, injuring you on the head. As the plaintiff in such a civil suit, you plead *res ipsa loquitur*—you have been hit!—for it is assumed this would not have happened if ordinary caution had been taken. The defendant, hailed into court, has the burden of proving that required diligence could not have prevented it; nor was he guilty of contributory negligence.

Or again, if your bank account has increased from \$1,000 to \$27,000 in one year and your only reported source of income was a \$6,000/year job, you have the burden of showing in such a net worth case that the account has legitimately augmented, when the Internal Revenue Service challenges it. The subpoenaed bank account plus the 1040-form suggest aberrations; you must prove the contrary.

In fine, we see that the affirmative does not always have the burden of proof. Second, he need not prove his case "beyond a reasonable doubt." A "preponderance of the evidence" is adequate. By the same token, if the negative can each time bring the pleadings back into equipoise, the decision must be his. Frequently, purely destructive cases will not do the trick.

FOOTNOTES

- ¹ For example, D. Potter, ed., *Argumentation and Debate*, Dryden, NYC, 1954; pp. 29, 63; W. W. Braden and E. Brandenburg, *Oral Decision-Making*, Harpers, NYC, 1955, p. 435; H. L. Ewbank and J. J. Auer, *Discussion and Debate*, 2nd ed., Appleton-Century-Crofts, NYC, 1951, pp. 73-74.
- ² "Reasonable doubt" was probably first used in *Rex v. Burdett* (1820) when Chief Justice Abbott told the jury that if a "reasonable doubt" existed as to whether the defendant had been proved guilty, it was their job to acquit him.
- ³ 20 American Jurisprudence #1249.
- ⁴ Many cases support this. See for example, *Howells State Bank v. Novotny, et al.* (1934); *New York Life Insurance Co. v. Ross* (1928); or *Guinan v. Boston, Cape Cod and New York Canal Co.* (1924).
- ⁵ *Thompson v. Town of Fort Branch, Indiana* (1931). See also 20 American Jurisprudence 135.
- ⁶ W. D. Butts, "The Shifting of the Burden of Proof in Net Worth Cases," III Howard Law Journal (June, 1957), 255.
- ⁷ Cf. N. Morris, "Burden of Proof in Bigamy," XVIII Modern Law Review (September, 1955).
- ⁸ 20 American Jurisprudence #153; *Ocean Accident and Guaranty Corporation, Ltd., v. Rubin, et al.* (1934); L. Mayers, *American Legal System*, Harpers, NYC, 1955; p. 271.
- ⁹ *US v. Bull Steamship Line* (1956); also *Merriam v. Venida Blouse Corporation, et al.* (1938). I cannot say what the trend is in criminal procedure but in Nebraska's *State v. Krasne* (1918), a criminal case in which the defendant was indicted for false advertising, Associate Justice Dean of the state supreme court declared that the defendant must prove he didn't engage in certain business, since the nature of his work is peculiarly and exclusively within his own knowledge.
- ¹⁰ This is not to be confused with the point in the preceding paragraph putting the burden of producing evidence on the party which can best do it.
- ¹¹ 20 American Jurisprudence #1248f; *First National Bank v. John Ford* (1923).
- ¹² *Fransham v. Tow Brothers, et al.* (1923). For a fuller discussion of this point than is possible here see 20 American Jurisprudence #1250ff. Of course, there are some civil cases in which a higher degree of proof is required, as in existence of fraud, proving a gift, or infringement of patents.
- ¹³ *Penna. R. R. v. Chamberlain* (1933); *Castagno v. Occident Life Insurance Co.* (1957). "The responsibility of the inconclusiveness of the evidence must be borne by the party" having the burden of proof, so *Equitable Trust Co. of New York v. Washington-Idaho Water Light and Power Co., et al.* (1924).

On the other hand, one Eighth Circuit Court of Appeals in 1933 said "where evidence tends equally to sustain either of two propositions, neither proposition is established by legitimate proof," in *Liggett and Myers Tobacco Co. v. Deparq*, see also *Deadrich v. US* (1935).

WE WELCOME

1—ARTICLES

2—LETTERS

3—COMMENTS

"Silence is not golden to an editor"

1960 Delta Sigma Rho Student Congress

An Act to Provide for the Effective and Orderly Regulation of Labor-Management Disputes

Be it Enacted by the Student Congress of Delta Sigma Rho:

SECTION 1. That the Federal Government be given the authority to convene a board at any time in the course of a dispute when a clarification of the issues would help move the parties toward settlement. This statutory board would have subpoena powers, could call hearings, evoke testimony, and create a public record of the issues and the positions of both parties in relation to these issues. It would not have the power to make final decisions.

SECTION 2. That the National Labor Relations Board be given Deputy Cabinet status by placing it in the Department of Labor. The membership of this board would then be determined solely by the President. The members of this board would have quasi-legislative and quasi-judicial powers. Their legislation would be subjected to:

(a) Congressional disapproval by a majority negative vote.

(b) Presidential veto.

Their judicial capacity in effect would be again subjected to public opinion.

SECTION 3. A provision that all decisions to strike by a labor union shall be conducted by a secret ballot.

SECTION 4. That should the N. L. R. B. refuse to hear a case, the said board must render a written statement giving reasons for its decisions.

SECTION 5. That the appropriate section of the Landrum-Griffin Act be amended to read that the following bonding procedures be required of union locals:

(a) A bond shall be secured to guarantee the moneys handled by the union. This bond can be a general bond as opposed to an individual bond.

(b) The bond shall be secured from any reputable firm that the union sees fit.

An Act to Amend the No-Man's Land Clause of the Landrum-Griffin Act

Be it Enacted by the Student Congress of Delta Sigma Rho:

SECTION 1. That only the National Labor Relations Board and the Federal Courts shall have jurisdiction to consider no-man's land disputes, as defined by the Landrum-

Griffin Act, in order to apply federal rules of law.

SECTION 2. That to accomplish this, the National Labor Relations Board shall be expanded so as to enable it to handle all such disputes.

A Resolution Denouncing the Disclaimer Affidavit of the National Defense Education Act

Be it Resolved by the Student Congress of Delta Sigma Rho:

That the Disclaimer Affidavit of the National Defense Education Act should be deleted.

That the disclaimer affidavit discriminates against students.

That the disclaimer affidavit is vague in interpretation.

That the disclaimer affidavit is ineffective in accomplishing its stated objectives.

That the disclaimer affidavit violates our basic freedoms of thought and belief.

A Resolution Endorsing Debates Between Presidential Candidates

Be it Resolved by the Student Congress of Delta Sigma Rho:

That Delta Sigma Rho hereby endorses

the principle that candidates for President of the United States should meet in public debate in the tradition of Lincoln and Douglas.

Officers of the Legislative Assembly of the 1960 Delta Sigma Rho Student Congress

1. Parliamentarian
Professor King Broadrick
University of Illinois
2. Speaker of the House
Norman Oberstien, Conservative
State University of Iowa
3. Clerk of the Assembly
Sue Ann Baker, Liberal
Indiana University
4. Majority Party Floor Leader
Andrew Sundberg, Liberal

5. United States Naval Academy
5. Majority Party Whip
Steve Cohen, Liberal
University of Wisconsin
6. Minority Party Floor Leader
Herb Kohler, Conservative
Knox College
7. Minority Party Whip
Robert Covey, Conservative
United States Naval Academy

NINTH CONGRESS . . .

(Continued from Page 49)

tials Committee hearing of the Republican Party in certifying southern delegations to the National Convention. It was necessary to determine the legal minority group from each of the Joint Conference Committees. Dr. King Broadrick, Faculty Parliamentarian for the Assembly, and Chairman of the Steering Committee performed admirably in dealing with the confused situation. Following the selection of bills to be debated, the Speaker called the Second Session of the Legislative Assembly to order thirty minutes late at 5:00 P.M. The Assembly adjourned on Friday at 6:30 P.M., until Saturday morning at 8:45 A.M. The Second Session was burdened with the parliamentary maneuvering of minority groups in an attempt to disrupt the normal proceedings, but finding they could accomplish little by such antics, the Assembly settled down to the task of debating legislation with much order and excellence.

There were two highlights of the Congress apart from the regular legislative deliberations. The first was the Congress Banquet, held in the Frangipani Room of the Union. After dinner President Ross presented charters to Washington State University and the State University of New York at Fredonia. President Ross introduced the officers of Delta Sigma Rho, and announced the election of Dr. Marvin Esch (Wayne State) and Dr. Melvin Moorhouse (Wichita) as new Vice Presidents. Dr. John Ashton, who debated under Dr. A. Craig Baird at Bates College and who is a member of Delta Sigma Rho, delivered the principal address at the Banquet. His topic was: "Extending Your Radius While Reducing Your Circumference."

The second highlight on Friday evening was the mass initiation ceremonies conducted by Dr. Robert Weiss. About thirty new members were admitted into membership in the inspiring ceremony.

Although the Evaluation Committee will suggest several changes in the procedure to make the future Congresses run more smoothly, the Ninth Congress was educationally rewarding for all of the participants, and the legislation adopted by it is testimony to the seriousness of purpose with which all approached their chores. The officers of the assembly conducted the meetings with expertness and the delegates debated with excellence. All of the participants are surely better equipped to meet the challenges of adult political activity, and are more conversant with the problems of government's role in regulating organized labor.

ARGUMENT . . .

(Continued from Page 58)

nily. It is reasonable to suppose that argument might profitably be organized by grouping similar issues together. Sometimes, of course, issues can be conveniently fitted into categories such as political, economic, and geographical: but the cogency of ethically-oriented structures should not be overlooked.

Furthermore, systematic consideration of the major ethical systems helps assure comprehensive coverage of potential issues. When a debater has done his basic research and is steeped in the materials on a subject, it is helpful for him to reflect systematically on the standards for good policy as they are suggested by the ethical systems. What data on this question relate most appropriately to Idealism? Utilitarianism? Casuistry? What ends or goals do the ethical codes suggest in this field of discussion? What issues arise when we clearly state these goals? Certainly the time-honored techniques of excluding extraneous ideas, and looking for the clash of opinions, need to be invoked; but the utility of incorporating the heuristic values of ethics seems obvious.

The "method of ethical review" has a significant analogy in the field of jurisprudence. In argumentation, I have suggested that one indicts the status quo (or defends it) by measuring the facts of the case at hand against ethically-derived goals or ends. Where we have selected the ideal of "peace" as a goal, if we find that the present policy does not contribute to the achieving of this goal, we have an issue appropriate to the affirmative, a problem in need of solution. This process of measuring facts against ethically-derived goals is similar to the process of measuring facts against the relevant law to determine guilt or innocence. As Paton describes the essentials of litigation:

The task of the court in actual litigation is to discover the facts of the case, to declare the rule of law that is applicable, and then to make a specific order which is the result of the application of the law to such facts as are considered relevant.¹⁸

Determining what rule of law is applicable in a particular case is not as easy as it may sound, and is probably more difficult than agreeing on the relevant ethical presuppositions on any given issue of a proposition of policy. The functional comparison, however, is striking.

One way of illustrating the dependence of policy propositions on ethical presuppositions is to conceive the argument on any single issue as a kind of pseudo-syllogism, with the "major premise" in the form of an ethical statement:

It is good to keep promises;
Recognition of Communist China would break
a promise to Chiang;
Therefore we should not recognize Communist
China.

Fashioned in this manner, issues in policy arguments will always be found to have an ethical statement against which the relevant facts are measured. Whether it is overt or suppressed, it is necessary. Intelligent teaching of argumentation will include inspection of the ethical presuppositions, as well as techniques for establishing the facts of the case.

* * *

Any attempt such as this to outline the ethical systems which can be utilized for analysis of propositions of policy will omit much that is relevant, and perhaps distort and oversimplify what is discussed. Even Leys' book, which is reasonably comprehensive, can merely scratch the surface of ethical thought. A thorough consideration of ethics will take the student back to Plato's *Georgias*, Aristotle's *Nichomachean Ethics*, Hobbes' *Leviathan*, Bentham's *Principles of Morals and Legislation*, and to works by Kant, Dewey, Moore, Ayer, Stevenson, and others.

Such documents are not extraneous to the study of argumentation and to the rhetoric of which it is a part; they are at the foundation of it, and it is to our peril if we consign them to the professional philosophers.

FOOTNOTES

¹ Horace G. Rahskopf, "Questions of Fact vs. Questions of Policy," *Quarterly Journal of Speech*, XVIII (February, 1932), 60-70.

² See the very excellent article by J. Vernon Jensen, "An Analysis of Recent Literature on Teaching Ethics in Public Address," *Speech Teacher*, VIII (September, 1959), 219-228.

³ *Rhetoric*, I.3 to I.9.

⁴ The most revealing, and in a way pathetic, admission of the barrenness of academic philosophy, is this statement from F. H. Bradley, leading logician at Oxford during the early part of this century: "How far the study of Logic, in any sense, is likely to aid us in practice, I must leave undiscussed. I am without that experience, whether in others or in myself, which alone could justify an opinion. In my actual reasoning I myself certainly have never troubled myself about any logic; but I do not know the conclusions which should follow from this. . ." (*Principles of Logic*, London, 1928, p. 620).

⁵ (Cambridge, 1953.)

⁶ By a staff reviewer of *The Times Educational Supplement*.

⁷ (Oxford, 1953), p. 8. The reference to Bentham is to *A Fragment on Government*, Chapter V, notes to Section vi.

⁸ O. C. Jensen, *The Nature of Legal Argument* (Oxford, 1957).

⁹ J. L. Montrose, "Basic Concepts of the Law of Evidence," *Law Quarterly Review*, 70 (October, 1954), 527-555.

¹⁰ Ludwig Wittgenstein, *Philosophical Investigations* (Oxford, 1958).

¹¹ (Englewood Cliffs, 1952). The sentence quoted is from p. 9.

¹² Leys, *op. cit.*, p. 4.

¹³ See L. A. Selby-Bigge, *British Moralists* (Oxford, 1897).

¹⁴ See Aristotle, *Rhetoric*, I.3.

¹⁵ See his *Ethics*, Part III. A thorough discussion of Spinoza's psychological and ethical egoism is found in C. D. Broad, *Five Types of Ethical Theory* (London, 1944), Chapter II.

¹⁶ *Op. cit.*, Chapter 3.

¹⁷ See Robert Langer, *Seizure of Territory* (Princeton, 1947).

¹⁸ George Whitecross Paton, *A Text-book of Jurisprudence* (Oxford, 1946), p. 457.

George Mark Sneath

Dr. George Mark Sneath, 75, professor emeritus and longtime Delta Sigma Rho sponsor at Boston University, died at his home in Orleans, Massachusetts in December, 1959.

Prof. Sneath was chairman of the English Department from 1947 until his retirement in 1954. Before coming to Boston University he had taught at the University of North Carolina and Goucher College. In his 31 years at Boston University he was responsible for building the debate program and founding the local chapter of Delta Sigma Rho. After serving for a quarter of a century as Director of Forensics he designated one of his former students, Dr. Austin J. Freeley, as his successor in that post. It was a firmly established tradition among the students, more binding than a catalogue requirement, that no one could truly be counted as a graduate of the College of Liberal Arts unless he had had at least one course with Dr. Sneath. A devoted Yale alumnus, his instructions to students about to debate a Harvard team were always "Give 'em hell!" for a debate with a Yale team he would only say, "Well, good luck." On his retirement a group of his colleagues and former students established the Sneath Prize Fund which provides an annual cash award for the outstanding member of the debating teams. The Sneath trophy, presented each year at the interscholastic debate tournament, is named in his honor.

A native of Baltimore he received his B. A. and M. A. from Yale in 1907 and 1910. He studied at the University of Chicago from 1914 to 1916 and received his Ph.D. from Boston University in 1926. He leaves his wife, two children, and six grandchildren.

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SECRETARY'S REPORT, DECEMBER, 1959

Summary of Gavel Subscriptions

Yearly	105	1959 Members	105
Libraries & Organizations	7	Chapter Libraries	89
Sponsor Subscriptions	34	Chapter Sponsors (4 copies)	356
Lifetime Subscriptions	68		
1958 Members	81	Total	845

Summary of New Members from September, 1958 to September, 1959

Albion College	4	Mount Mercy College	5
American University	4	Mundelein College	4
Amherst College	4	University of Nebraska	2
University of Arizona	2	Northwestern University	6
Bates College	4	Oberlin College	8
Boston University	1	Ohio Wesleyan University	4
Brooklyn College	5	Ohio State University	4
Brown University	14	Oregon State College	3
University of Colorado	1	University of Pennsylvania	3
Cornell University	4	Penn. State University	2
Creighton University	1	University of Pittsburgh	4
DePauw University	6	Pomona College	4
Elmira College	1	Syracuse University	6
Grinnell College	4	Temple University	7
University of Hawaii	2	University of Texas	7
University of Idaho	5	University of Virginia	4
University of Illinois	5	University of Washington	1
Indiana University	3	Washington University	2
Iowa State College	1	Washington & Jefferson	5
Iowa State Teachers College	2	Wayne State University	3
State University of Iowa	4	West Virginia University	3
John Carroll University	9	University of Wichita	2
University of Kansas	6	Williams College	2
Kansas State University	2	University of Wisconsin	2
Marquette University	6	College of Wooster	3
University of Michigan	5	Yale University	5
Michigan State University	3		
University of Minnesota	7	Totals	
University of Missouri	4	New Members	245
Morehouse College	11	Chapter Schools	56

(Total of New Members from September, 1959 to March 22, 1960. 90 new members)

Delta Sigma Rho . . . Chapter Directory

Code	Chapter Name	Date Founded	Faculty Sponsor	Address
A	Albion	1911	J. V. Garland	Albion, Mich.
AL	Allegheny	1913	Nels Juleus	Meadville, Penn.
AM	Amherst	1913	S. L. Garrison	Amherst, Mass.
AMER	American	1932	Dale E. Wolgamuth	Washington, D.C.
AR	Arizona	1922	G. F. Sparks	Tucson, Ariz.
B	Bates	1915	Brooks Quimby	Lewiston, Maine
BE	Beloit	1909	Carl G. Balson	Beloit, Wisc.
BK	Brooklyn	1940	Charles Parkhurst	Brooklyn, N.Y.
BR	Brown	1909	Anthony C. Gosse	Providence, R.I.
BU	Boston	1935	Wayne D. Johnson	Boston, Mass.
CA	Carleton	1911	Ada M. Harrison	Northfield, Minn.
CH	Chicago	1906	Marvin Phillips	Chicago, Ill.
CLR	Colorado	1910	Thorrel B. Fest	Boulder, Colo.
COL	Colgate	1910	Stan Kinney	Hamilton, N.Y.
CON	Connecticut	1952	Charles McNames	Storrs, Conn.
COR	Cornell	1911	H. A. Wichelns	Ithaca, N.Y.
CR	Creighton	1934	Rev. Robert F. Purcell, S. J.	Omaha, Nebraska
D	Dartmouth	1910	Herbert L. James	Hanover, N.H.
DP	DePaul	1915	Robert O. Weiss	Greencastle, Ind.
EL	Elmira	1931	Geraldine Quinlan	Elmira, N.Y.
GR	Grinnell	1951	Wm. Vanderpool	Grinnell, Iowa
GW	George Washington	1908	George F. Henigan, Jr.	Washington, D.C.
H	Hamilton	1922	Willard B. Marsh	Clinton, N.Y.
HR	Harvard	1909		Cambridge, Mass.
HW	Hawaii	1947	Orland S. Lefforge	Honolulu, Hawaii
I	Idaho	1926	A. E. Whitehead	Moscow, Idaho
ILL	Illinois	1906	King Broadrick	Urbana, Ill.
IN	Indiana	1951	E. C. Chenoweth	Bloomington, Ind.
ISC	Iowa State	1909	R. W. Wilkie	Ames, Iowa
IT	Iowa State Teachers	1913	Lillian Wagner	Cedar Falls, Iowa
IU	Iowa	1906	Orville Hitchcock	Iowa City, Iowa
JCU	John Carroll	1958	Austin J. Freeley	Cleveland, Ohio
K	Kansas	1910	E. C. Buehler	Lawrence, Kansas
KA	Kansas State	1951		Manhattan, Kansas
KX	Knox	1911	Donald L. Torrence	Galesburg, Ill.
MQ	Marquette	1930	Joseph B. Laine	Milwaukee, Wisc.
M	Michigan	1906	N. Edd Miller	Ann Arbor, Mich.
MSU	Michigan State	1958	Huber Ellingsworth	East Lansing, Mich.
MN	Minnesota	1906	Robert Scott	Minneapolis, Minn.
MO	Missouri	1909	Robert Friedman	Columbia, Mo.
MM	Mount Mercy	1954	Thomas A. Hopkins	Pittsburgh, Penn.
MR	Morehouse	1959	A. Russell Brooks	Atlanta, Ga.
MU	Mundelein	1949	Sister Mary Irene, B.V.M.	Chicago, Ill.
N	Nebraska	1906	Don Olson	Lincoln, Nebraska
NEV	Nevada	1948	Robert S. Griffin	Reno, Nevada
ND	North Dakota	1911	John S. Penn	Grand Forks, N.D.
NO	Northwestern	1906	Russel Windes	Evanston, Ill.
O	Ohio State	1910	Paul A. Carmack	Columbus, Ohio
OB	Oberlin	1936	Paul Boase	Oberlin, Ohio
OK	Oklahoma	1913	Roger E. Nebergall	Norman, Okla.
OR	Oregon	1926	W. Scott Nobles	Eugene, Oregon
ORS	Oregon State	1922	Earl W. Wells	Corvallis, Oregon
OW	Ohio Wesleyan	1907	Ed Robinson	Delaware, Ohio
P	Pennsylvania	1909	G. W. Thumm	Philadelphia, Pa.
PO	Pomona	1928	Howard Martin	Claremont, Calif.
PS	Pennsylvania State	1917	Clayton H. Schug	University Park, Pa.
PT	Pittsburgh	1920	Bob Newman	Pittsburgh, Pa.
R	Rockford	1933	Mildred F. Berry	Rockford, Ill.
SC	Southern California	1915	James H. McBoath	Los Angeles, Calif.
ST	Stanford	1911	Leland Chapin	Stanford, Calif.
SY	Syracuse	1910	J. Edward McEvoy	Syracuse, N.Y.
TE	Temple	1950	Amelia Hoover	Philadelphia, Pa.
T	Texas	1909	Martin Todaro	Austin, Texas
TT	Texas Tech	1953	James E. Brennan	Lubbock, Texas
VA	Virginia	1908	Robert Jeffrey	Charlottesville, Va.
W	Washington	1922		St. Louis, Mo.
WA	University of Washington	1954	Laura Crowell	Seattle, Wash.
WAY	Wayne	1937	Rupert L. Cortright	Detroit, Mich.
WES	Wesleyan	1910		Middletown, Conn.
WICH	Wichita	1941	Mel Moorhouse	Wichita, Kansas
WIS	Wisconsin	1906	Winston L. Brembeck	Madison, Wisc.
WJ	Washington and Jefferson	1917	Frederick Hellegier	Washington, Penn.
WM	Williams	1910	George R. Connelly	Williamstown, Mass.
WO	Wooster	1922	J. Garber Drushal	Wooster, Ohio
WR	Western Reserve	1911	R. A. Lang	Cleveland, Ohio
WVA	West Virginia	1923	F. A. Neyhart	Morgantown, West Va.
WYO	Wyoming	1917	Patrick Marsh	Laramie, Wyoming
Y	Yale	1909	Rollin G. Osterweis	New Haven, Conn.
L	At Large	1909		

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